

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KANDUS DAKUS

Plaintiff,

v.

KONINKLIJKE LUCHTVAART
MAATSCHAPPIJ, N.V.,

Defendant,

v.

SPENCER SHEEHAN,

Respondent.

No. 22-CV-7962 (RA)

ORDER ADOPTING
REPORT & RECOMMENDATION

RONNIE ABRAMS, United States District Judge:

On September 17, 2022, Plaintiff Kandus Dakus filed this putative class action alleging that Defendant Koninklijke Luchtvaart Maatschappij, N.V. (“KLM”) had falsely advertised its commitment to climate goals. After it became apparent that the complaint contained false allegations, the Court dismissed the suit and awarded sanctions against Plaintiff’s counsel, Spencer Sheehan, pursuant to 28 U.S.C. § 1927 and Federal Rule of Civil Procedure 11 based on his decision to continue prosecuting the case after KLM’s motion to dismiss put him on notice of the false allegations in the complaint. *See* Dkt. No. 53. The Court then ordered KLM’s counsel to file an affidavit setting forth the excess costs, expenses and attorney fees it incurred after it filed its motion to dismiss.

After receiving those materials and various related submissions from the parties, the Court referred the matter to Magistrate Judge Lehrburger for calculation of the attorney fees and costs to be paid as sanctions by Sheehan to KLM. *See* Dkt. No. 61. Judge Lehrburger then issued a report

and recommendation (“the Report”), which recommended awarding \$80,160.00 in attorney fees and \$3,300.50 in costs to KLM. *See* Dkt. No. 68 at 23. Neither party objected to the Report.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties may object to a magistrate judge’s proposed findings and recommendations “[w]ithin 14 days after being served with a copy of the recommended disposition.” Fed. R. Civ. P. 72(b)(2). “When the parties make no objections to the Report, the Court may adopt the Report if ‘there is no clear error on the face of the record.’” *Smith v. Corizon Health Servs.*, 2015 WL 6123563, at *1 (S.D.N.Y. Oct. 16, 2015) (quoting *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005)). “Furthermore, if as here . . . the magistrate judge’s report states that failure to object will preclude appellate review and no objection is made within the allotted time, then the failure to object generally operates as a waiver of the right to appellate review.” *Hamilton v. Mount Sinai Hosp.*, 331 F. App’x 874, 875 (2d Cir. 2009).

No objections to Judge Lehrburger’s Report were filed here, so the Court reviews it for clear error. After careful consideration of the record, the Court finds no error and thus adopts the careful and well-reasoned Report in its entirety. Accordingly, Sheehan is ordered to pay KLM \$80,160.00 in attorney fees and \$3,300.50 in costs as sanctions under 28 U.S.C. § 1927.

The Clerk of Court is respectfully directed to enter judgment for KLM in the amount of \$83,460.50 and close this case.

SO ORDERED.

Dated: April 23, 2025
New York, New York



Ronnie Abrams
United States District Judge